## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA SOUTHERN DIVISION No. 7:11-CR-2-D

UNITED STATES OF AMERICA	)	
v.	)	ORDER
	)	ORDER
STEVEN SHAWN MARSHALL,	)	
Defendant.	)	

On March 7, 2011, pursuant to a written plea agreement, Steven Shawn Marshall ("Marshall") pleaded guilty to conspiracy to possess with intent to distribute and to distribute 5 kilograms or more of cocaine and 50 grams or more of cocaine base (crack) (count one) and money laundering (count two). See [D.E. 1, 14]. On October 6, 2011, the court held Marshall's sentencing hearing. See [D.E. 32, 33]. At the hearing, the court adopted the facts set forth in the Presentence Investigation Report ("PSR"). See Fed. R. Crim. P. 32(i)(3)(A)-(B). The court calculated Marshall's total offense level to be 39, his criminal history category to be II, and his advisory guideline range to be 292 to 365 months' imprisonment on count one and 240 months' imprisonment on count two [D.E. 33]. After granting the government's motion under U.S.S.G. § 5K1.1 and thoroughly considering all relevant factors under 18 U.S.C. § 3553(a), the court sentenced Marshall to 192 months' imprisonment on count one and 192 months' imprisonment on count two to run concurrently. See [D.E. 33]. Marshall did not appeal.

On December 18, 2014, Marshall moved for a sentence reduction under 18 U.S.C. § 3582(c)(2), U.S.S.G. § 1B1.10(c), and Amendment 782 [D.E. 40]. On May 8, 2017, Marshall filed a motion for a status report [D.E. 45]. Marshall's new advisory guideline range on count one is 235 to 293 months' imprisonment, based on a total offense level of 37 and a criminal history category

of II. See Resentencing Report. Marshall requests a 161-month sentence to run concurrent on counts one and two. See [D.E. 40] 6.

The court has discretion to reduce Marshall's sentence under Amendment 782. See, e.g., Dillon v. United States, 560 U.S. 817, 827 (2010); United States v. Peters, 843 F.3d 572, 574 (4th Cir. 2016); <u>United States v. Patterson</u>, 671 F. App'x 105, 105–06 (4th Cir. 2016) (per curiam) (unpublished); United States v. Cole, 618 F. App'x 178, 178-79 (4th Cir. 2015) (per curiam) (unpublished); United States v. Thomas, 546 F. App'x 225, 225–26 (4th Cir. 2013) (per curiam) (unpublished); United States v. Perez, 536 F. App'x 321, 321 (4th Cir. 2013) (per curiam) (unpublished); United States v. Smalls, 720 F.3d 193, 195-97 (4th Cir. 2013); United States v. Mann, 709 F.3d 301, 306-07 (4th Cir. 2013); United States v. Stewart, 595 F.3d 197, 200 (4th Cir. 2010). In deciding whether to reduce Marshall's sentence, the court finds that Marshall engaged in serious criminal behavior. See PSR ¶ 7–12. The conspiracy took place for approximately five years and involved over 46.06 kilograms of cocaine and 4.61 kilograms of cocaine base (crack). See id. Marshall also possessed a firearm during his drug distribution and was an organizer, leader, manager, or supervisor. See id. ¶¶ 36, 38. Marshall also has prior convictions for reckless driving to endanger and flee or elude arrest with a motor vehicle. See id. ¶¶ 14, 16. Marshall also has a spotty work history. See id. ¶¶ 28–33. Nonetheless, Marshall has taken some positive steps while incarcerated on his federal sentence. See [D.E. 40-1]; cf. Pepper v. United States, 562 U.S. 476, 491 (2011).

Having reviewed the entire record and all relevant policy statements, the court finds that Marshall received the sentence that was "sufficient, but not greater than necessary" under 18 U.S.C. § 3553(a). Further reducing Marshall's sentence would threaten public safety in light of his serious criminal conduct and serious criminal history. <u>Cf.</u> U.S.S.G. § 1B1.10, cmt. n.1(B)(ii). Thus, the

court denies Marshall's motion for reduction of sentence under Amendment 782. See, e.g., Patterson, 671 F. App'x at 105–06; Cole, 618 F. App'x at 178–79; Thomas, 546 F. App'x at 225–26; Perez, 536 F. App'x at 321.

In sum, the court DENIES Marshall's motion for reduction of sentence [D.E. 40]. Marshall's motion for a status report [D.E. 45] is DISMISSED.

SO ORDERED. This 11 day of October 2017.

JAMES C. DEVER III

Chief United States District Judge